HONERABLE Ms. JUSTICE G. ROHINI

WRIT PETITION No. 16616 OF 2006

Date: 30.08.2006

BETWEEN:

Toddy Tappers Cooperative Society Hanamkonda,
Rep. by its President
Mr. Sammaiah

…. PETITIONER

And

1. The Prohibition and Excise Superintendent, Warangal, Warangal District, and another.

…. RESPONDENTS

ORAL ORDER:

The petitioner is a Toddy Tappers Cooperative Society at Hanamkonda. This writ petition is filed seeking a declaration that the proceedings of the Prohibition and Excise Superintendent, Warangal, the first respondent herein, dated 13.07.2006 made under

Sections 31(1)(b) and 31(2) of the A.P. Excise Act, 1968, thereby cancelling the licence issued in favour of the petitioner-society, as arbitrary and illegal.

It is not in dispute that the petitioner-society was served with a show cause notice dated 06.07.2006 calling upon the petitioner to show cause as to why the licence should not be cancelled on the allegations specified therein, within a period of seven days from the date of receipt of the said notice. The petitioner states that the said notice was actually received on 17.07.2006, and within the time granted, an explanation was submitted. In the meanwhile, the impugned order of cancellation, dated 13.07.2006 was passed observing that the licensee failed to submit any explanation.

The learned counsel for the petitioner primarily contended that the impugned order of cancellation is arbitrary, illegal and in violation of the principles of natural justice since the same was passed without considering the explanation offered by the petitioner.

Though no counter affidavit is filed, the learned

Government Pleader for Prohibition and Excise under instructions stated that the show cause notice was served on the petitioner on 06.07.2006 itself.

Even assuming that it was served on 6.07.2006, it is clear that the impugned order of cancellation, dated 13.07.2006 was passed within seven days.

It is also submitted by the learned Government Pleader that subsequently, the explanation submitted by the petitioner to the show cause notice, was received in the office of the first respondent on 23.07.2006.

Since apparently the impugned order of cancellation was passed without affording proper opportunity to the petitioner to put forth its version, the same is liable to be set aside on that ground alone.

Accordingly, without expressing any opinion on merits, the impugned order of cancellation is set aside and the Writ Petition is disposed of with a direction to the first respondent to consider the explanation, which was already received in the office of the first respondent on 23.07.2006 and to pass appropriate orders afresh in accordance with law. There shall be no order as to costs.

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(G. Rohini, J.)

30th August, 2006

Note: Issue C.C. in 3 days.

(By order) / Js.